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Attorney for WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS FARGO BANK, N.A.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE:	§ CASE NO. 14-11771-TMD-13
	§
NESANET G BELAY,	§
Debtor	§ CHAPTER 13
	§
WELLS FARGO HOME MORTGAGE, A	§
DIVISION OF WELLS FARGO	§
BANK, N.A.,	§
Movant	§ HEARING DATE: _____
	§
v.	§ TIME: _____
	§
NESANET G BELAY; DEBORAH	§
B. LANGEHENNIG, Trustee	§
Respondents	§ JUDGE TONY M. DAVIS

**MOTION OF WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS
FARGO BANK, N.A.
FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) REGARDING
PROPERTY LOCATED AT 10805 BARNHILL DR, AUSTIN, TX 78758 PURSUANT
TO 11 U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT
PURSUANT TO
§ 362(e)**

NOTICE

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within fourteen (14) days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

WAIVER OF THIRTY DAY REQUIREMENT

Movant desires to waive the requirement of a Hearing within thirty (30) days under §362(e) and requests a Hearing at the next available date.

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS FARGO BANK, N.A., by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about December 02, 2014, Debtor (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.
3. At the time of filing the Chapter 13 petition, Movant held an ARM Note executed on March 25, 2004, by WOLDU G GEBREHIWET and NESANET G BELAY in the original amount of NINETY-TWO THOUSAND DOLLARS AND ZERO CENTS (\$92,000.00) with interest thereon at an adjustable rate as stated in the ARM Note. A true and correct copy of the ARM Note is attached hereto as Exhibit "A".
4. Debtor(s) executed a promissory note secured by a mortgage or deed of trust.

The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

5. The indebtedness is secured by a Deed of Trust dated March 25, 2004 and executed by WOLDU G GEBREHIWET and NESANET G BELAY on real estate with all improvements known as:

LOT 5, BLOCK P, AMENDED PLAT OF LOTS 8 THRU 18, BLOCK J, AND LOTS 1-19, BLOCK P OF THE VILLAGE AT QUAIL CREEK, SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO TO MAP OR PLAT THEREOF RECORDED IN VOLUME 71, PAGE 80, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

COMMONLY KNOWN AS **10805 BARNHILL DR, AUSTIN, TX 78758.**

A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

6. Prior to the filing of the petition, Debtor was indebted to Movant according to the terms and conditions of the ARM Note and Deed of Trust. Debtor has failed to maintain current the post-petition payments due under the note and as of April 24, 2015 is in arrears for 5 payments through and including the April 15, 2015 payment.

7. The outstanding indebtedness to Movant is \$84,700.09 principal plus accrued interest, late charges, attorneys fees and costs as provided in the ARM Note and Deed of Trust.

8. In accordance with the terms of the ARM Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its ARM Note and Deed of Trust.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

12. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all post-petition payments brought current. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS FARGO BANK, N.A. be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ JEFF FLEMING

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ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2015, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

/s/ JEFF FLEMING 5/29/2015

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CO-DEBTOR:

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TRUSTEE:

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DEBTOR'S ATTORNEY:

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PARTIES IN INTEREST:

None

PARTIES REQUESTING NOTICE:

None